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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,138	06/22/2000	Jianhua Wang	NC18612	7352
30973	7590	04/12/2005	EXAMINER	
SCHEEF & STONE, L.L.P. 5956 SHERRY LANE SUITE 1400 DALLAS, TX 75225			ABELSON, RONALD B	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/599,138

Applicant(s)

WANG ET AL.

Examiner

Ronald Abelson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 7-15 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 recites the limitation "first and at least second fixed site transceiver defined in the first data packet system" in line 4-5. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 2, 3, 4, 5, 6, 16, 17, 18, and 19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21, 21, 4, 4, 21, 21, 21, 21, 21, and 15 respectively of copending Application No. 09/599,136. Although the conflicting claims are not identical, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1, 2, 3, 4, 5, 6, 16, 17, 18, and 19 of the instant application merely broadens the scope of the claims 21, 21, 4, 4, 21, 21, 21, 21, 21, and 15 respectively of the copending application by eliminating the elements and their functions of the claims. It has been held that the omission an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd.App.1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

((e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 rejected under 35 U.S.C. 102(e) as being anticipated by Lemailainen (US 6,681,259)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

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Regarding claim 1, Lemailainen teaches a packet radio communication system for communicating packet data (fig. 2, GPRS, col. 4 lines 19-30), an improvement of an integrator (fig. 2, network interface adapters, col. 4 lines 19-30) for integrating operation of a first packet data system element with operation of a second packet data system having at least a second packet-data-system element (fig. 2 WLAN, col. 4 lines 19-30), thereby to form an integrated system of the packet radio communication system.

Lemailainen teaches an integration element at least functionally coupled between the first packet-data-system element and the second packet-data system element, said integration element for relaying packet data between the first packet-data system element and the second packet-data system element, the packet data of any selected information-element type of a plurality of types defined in either of the first packet data system and the second packet data system (fig. 2, network interface adapters, col. 4 lines 19-30).

7. Claim 1 rejected under 35 U.S.C. 102(e) as being anticipated by Jawanda (US 6,243,581).

Regarding claim 1, Jawanda teaches a packet radio communication system for communicating packet data (fig. 1), an

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improvement of an integrator (fig. 1 box 36, 38, 22) for integrating operation of a first packet data system element (fig. 1 box 30) with operation of a second packet data system having at least a second packet-data-system element (fig. 1 box 20), thereby to form an integrated system of the packet radio communication system.

Jawanda teaches an integration element at least functionally coupled between the first packet-data-system element and the second packet-data system element (fig. 1 box 36, 38, 22), said integration element for relaying packet data between the first packet-data system element and the second packet-data system element, the packet data of any selected information-element type of a plurality of types defined in either of the first packet data system and the second packet data system.

8. Claim 19 rejected under 35 U.S.C. 102(e) as being anticipated by Sasson (US 6,728,261).

Regarding claim 19, Sasson teaches a packet radio communication system defined in terms of logical layers (fig. 3), an improvement of an integrator (fig. 3 box 120, 121) for integrating operation of a first packet data system having at least a first packet data system logical layer (fig. 3 box 109)

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and a second packet data system having at least a second packet data system logical layer (fig. 3 box 102).

Sasson teaches an integration logical layer logically positioned (fig. 3 ATM-SSCS, col. 2 lines 40-43, fig. 5 box 512, col. 4 lines 31-35) between the first packet data system logical layer (fig. 3 ATM layer, col. 2 lines 40-43, fig. 5 ATM layer, col. 4 lines 31-35) and the second packet data system logical layer (fig. 3 RTD/UDP/IP, col. 2 lines 40-43, fig. 5 box 513, 514, RTD/UDP/IP, col. 4 lines 31-35), said integration logical layer for relaying packet data between the first packet data system logical layer and the second packet data system logical layer, the packet data of any selected information element type of a plurality of elements types defined in either of the first packet data system and the second packet data system (translate between, col. 2 lines 40-43).

Allowable Subject Matter

9. Claim 7-15 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments, see pg. 11 1st paragraph, filed 11/30/2004, with respect to the rejection(s) of claim(s) independent claims 1, and 16 under 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of co-pending application 09/599,136 with respect to claims 1-7, and 16-19. Furthermore, claim 1 is rejected with respect to Lemilainen and Jawanda and claim 19 has been rejected with respect to Sasson.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RA
Ronald Abelson
Examiner
Art Unit 2666


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